

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: Guidant Corp. Implantable
Defibrillators Products Liability Litigation

MDL No. 05-1708 (DWF/AJB)

This Document Relates to ALL ACTIONS

**ORDER FOR FINAL
DISTRIBUTION OF SETTLEMENT
CLAIMANT FUNDS**

On December 1, 2008, Plaintiffs provided Guidant with settlement documents for 95% of the eligible settlement participants. Upon 95% participation, the Guidant MDL settlement was guaranteed to go forward. After reaching this participation threshold, the parties agreed that the vast majority of claimants' obligations under the Master Settlement Agreement ("MSA") had been met and further agreed that these claimants were eligible for payment. Accordingly, on December 19, 2008 this Court ordered a partial distribution of settlement funds so as to provide payment eligible claimants with access to a portion of their allocated settlement funds. The held back funds, although already paid by Guidant and Boston Scientific into the settlement fund, were not to be released to claimants until further order of this Court. The Amended Master Settlement terms and Lien Resolution Agreements required this Court to approve at least two, in most cases more, partial distributions of settlement funds to each settlement claimant. As can be expected with several partial distributions for over 8,000 settlement claimants, some settlement checks have been misplaced or for other reasons have not been cashed. Therefore, the Plaintiffs' Lead Counsel now filed a motion seeking an order for final

distribution and deposit of award settlement funds for these remaining claimants or waiver of the funds and distribution of said funds by *cy pres* award to the Minneapolis Heart Institute Foundation.

The Court finds the Plaintiffs' Lead Counsel's proposal acceptable regarding final distribution of the remaining unclaimed funds previously awarded and released to participating Guidant MDL settlement claimants by this Court. Further, this Court agrees that any settlement funds distributed by this Order that are not deposited by the payee within 30 days of the settlement check being issued will be deemed waived by that payee and Claimant. Any settlement funds not deposited in accordance with order and thereby waived by the participating settlement claimant will be distributed through a *cy pres* award to the Minneapolis Heart Foundation Institute.

IT IS HEREBY ORDERED:

1. All awards shall be issued by the Claims Administrator, BMC Group Class Action Services (f/n/a Analytics, Inc.), on checks drawn from the funds remaining in the Guidant Settlement Checking Account.
2. The Claims Administrator shall stop payment or otherwise ensure that the settlement checks listed on Exhibit A are nullified.
3. The Claims Administrator shall issue a final settlement check consisting of all remaining settlement funds for each settlement claimants listed on Exhibit A.
4. The Claims Administrator shall issue a final settlement check for deceased claimants listed on Exhibit A made payable to the representing firm only.

5. The Claims Administrator shall issue a final settlement check for deceased claimants #13354, #16175, and #12667 listed on Exhibit A made payable in accordance with the terms of the Affidavit of Counsel.

6. Counsel for deceased Claimants listed on Exhibit A shall distribute the all settlement funds in accordance with the Affidavit of Counsel and previous settlement fund distributions.

7. Counsel and/or Claimants shall deposit the final settlement checks, distributed pursuant to this Order, for Claimants listed on Exhibit A within 30 days of issuance by the Claims Administrator.

8. All checks issued pursuant to this Order for Claimants listed on Exhibit A not deposited within 30 days of issuance by the Claims Administrator will be forfeited by that Claimant.

9. The Claims Administrator shall stop payment on all checks issued pursuant to this Order to Claimants listed on Exhibit A 45 days after issuance.

10. Any remaining funds left in the Guidant Settlement Checking Account relating to Claimants listed on Exhibit A after the Claims Administrator has stopped payment shall be awarded through *cy pres* to the Minneapolis Heart Institute Foundation.

11. The Claims Administrator shall contact Minneapolis Heart Institute Foundation at 612-863-4204 to coordinate distribution of the *cy pres* award.

Date: April 27, 2012

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge